Rev. Rul. 73-407, 1973-2 C.B. 383

Private foundations; self-dealing; contribution to public charity. A contribution by a private foundation to a public charity made on the condition that the public charity change its name to that of a substantial contributor to the foundation and agree not to change the name again for 100 years does not constitute an act of self-dealing under section 4941(d)(1)(E) of the Code.

Advice has been requested whether a contribution by a private foundation to a public charity constitutes an act of self-dealing under section 4941(d)(1)(E) of the Internal Revenue Code of 1954 where the contribution is made upon the condition that the public charity change its name to that of a disqualified person with respect to the private foundation.

The private foundation and the public charity entered into a contract in which the foundation promised to give the charity a large sum of money if the charity changed its name to that of a substantial contributor to the foundation and agreed to refrain from changing its name again for one hundred years. A court determined that the charity had the power to bind itself not to change its name for one hundred years. The charity amended its charter to change its name to that of the substantial contributor to the foundation, and the foundation paid the agreed sum to the charity.

Section 4941(d)(1)(E) of the Code provides that the term 'self-dealing' means any direct or indirect transfer to, or use by or for the benefit of, a disqualified person of the income or the assets of a private foundation.

Section 53.4941(d)-2(f)(2) of the Foundation Excise Tax Regulations states that the fact that a disqualified person receives an incidental or tenuous benefit from the use by a foundation of its income or assets will not, by itself, make such use an act of self-dealing. Thus, the public recognition a person may receive, arising from the charitable activities of a private foundation to which such person is a substantial contributor, does not in itself result in an act of self-dealing since generally the benefit is incidental and tenuous.

In example (4) of section 53.4941(d)-2(f)(4) of the regulations, a disqualified person with respect to a private foundation contributed certain real estate to the private foundation for the purpose of building a neighborhood recreation center in a particular underprivileged area. As a condition of the gift, the private foundation agreed to name the recreation center after the disqualified person. Since the benefit to the disqualified person was only incidental and tenuous, the naming of the recreation center, by itself, was not an act of self-dealing.

The public recognition the disqualified person receives from

the charitable act of the private foundation is an incidental and tenuous benefit within the meaning of the regulations. Accordingly, the payment by the private foundation does not constitute an act of self-dealing under section 4941(d)(1)(E) of the Code.